

10.03.14-RAE-IL-SPOILIATION-LETTER-VBA-10.31.14**Transmission Status****Your transmission has completed.**

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4 KOPS

Phone: 971-444-KOPS

Fax: 8666463475

Fax

To: Village of Berkeley Attorney Bethany Shon Nystrom

From: GINA STONE

Fax: 13123822127

Pages: 9

Re: Re: Notice Preserve Eviden

Date: October 31, 2014

To: Custodian of Records / Responsible Agent

Demand Notice to Preserve Information of Records and Cease Destruction.

Thank you,
Gina Stone

1148 Taft Avenue, Village of Berkeley, IL 60163

Demand Notice to Preserve Information of Records and Cease Destruction

Gina Marie Stone
1148 Taft Avenue
Berkeley, IL 60163
Phone: 708-833-1935 | Fax: 866-646-3475 | Email: Justice4Raeleigh@gmail.com

October 31, 2014

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Village of Berkeley, IL - Village Board
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5819 Electric Ave.
Berkeley, IL 60163
Phone: 1-708-449-8840 | Fax: 1-708-449-6189 | Email: rlee@berkeley.il.us

RE: Preservation and Information/Records Retention Letter regarding the October 3, 2014 shooting of a family pet, Raeleigh, belonging to Gina Marie Stone

Dear Custodian of Records / Responsible Agent:

This notice is in reference to Incident No. 1411306 that occurred on October 3, 2014 at 5:10 pm at 1148 Taft Avenue, Berkeley, IL 60163 when my dog, Raeleigh, was shot by Officer J. Parker (112/615) from the Berkeley Police Department ("Incident").

My name is Gina Marie Stone and this letter serves as a formal request for the preservation of any and all evidence, information, records, documents, photos, audio or video recordings, paper or electronic data, and/or other tangible items pertaining or relevant to or property discoverable (the "Preserved Information") to Incident No. 1411306 that occurred on October 3, 2014 at 5:10 pm at 1148 Taft Avenue, Berkeley, IL 60163 when my dog, Raeleigh, was shot by Officer J. Parker (112/615) from the Berkeley Police Department. You are hereby given further notice that Preserved Information is not to

be destroyed, concealed or altered in any manner whatsoever, and that any ongoing processing of document destruction involving such Preserved Information must cease immediately.

At this preliminary stage, I seek to obtain information which may provide additional insight regarding (without limitation) to how the Incident occurred, policies and procedures involved in the Incident, why Officer J. Parker (112/615) acted so cruelly towards an otherwise non-threatening family pet, and why he exercised such poor and reckless judgment with his sidearm, and who may be held responsible for my damages. Please understand that, by virtue of your receipt of this letter, you have been identified as a potential defendant in legal action which may be imminent. As of this writing, no lawsuit has been filed. Hopefully, with open and honest dialogue and exchange of information, legal action can be avoided.

Please be advised that by this letter, you are hereby given notice and under a legal duty to maintain, preserve, retain, protect, and not to destroy, conceal or alter any paper or electronic files and other data generated by and/or stored on your computers, recording devices and storage media (e.g., hard disks, floppy disks, tapes, backup tapes, hard drives), or any other electronic data, such as email or voice mail that relate to the Incident. As you know, your failure to comply with the preservation and retention of the evidence outlined can result in severe sanctions (and liability in tort) being imposed by a court of law for spoliation of evidence or potential evidence.

Preservation of information, documents, and evidence means taking reasonable steps to:

- (a) ensure that relevant documents (including electronically stored information) are not destroyed, lost or relinquished to others, either intentionally, or inadvertently such as through the implementation of an ordinary course document retention/destruction policy;
- (b) ensure that relevant documents are not modified – an issue that arises particularly in the case of electronically stored information (which may be modified by the simple act of accessing the information), and in the case of documents used on an ongoing basis in the operation of the business; and
- (c) ensure that relevant documents remain accessible – again, an issue that arises particularly in the case of electronically stored information, which may require particular forms of software or hardware to remain readable.

I anticipate requesting from you a number of documents and things, including files stored on your recording devices, email servers, computers and computer storage media that relate to the Incident. In order to avoid spoliation, you will need to provide the data requested on the original media. Do not reuse any media to provide this data.

Although I may bring a motion for an order preserving documents and things from destruction or alteration, your obligation to preserve documents and things for discovery and/or public records law requests in this case arises in law and equity independently from any order on such motion.

Electronic documents and the storage media on which they reside contain relevant, discoverable information beyond that which may be found in printed documents. Therefore, even where a paper copy exists, I will seek all documents in their electronic form along with information about those documents contained on the media. I also will seek paper printouts of only those documents that contain unique

information after they were printed out (such as paper documents containing handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions) along with any paper documents for which no corresponding electronic files exist.

My discovery and/or public records law requests will ask for certain data on the hard disks, floppy disks and backup media used in your computers, some of which data are not readily available to an ordinary computer user, such as “deleted” files and “file fragments.” As you may know, although a user may “erase” or “delete” a file all that is really erased is a reference to that file in a table on the hard disk; unless overwritten with new data, a “deleted” file can be as intact on the disk as any “active” file you would see in a directory listing.

Courts have made it clear that all information available on electronic storage media is discoverable, whether readily readable (“active”) or “deleted” but recoverable. Accordingly, in the event litigation ensues, electronic data and storage media that may be subject to my discovery and/or public records law requests and that you are obligated to maintain and not alter or destroy, include but are not limited to the following:

All digital or analog electronic files, including “deleted” files and file fragments, stored in machine-readable format on magnetic, optical or other storage media, including without limitation the hard drives or floppy disks used in connection with your computers and their backup media (e.g., other hard drives, backup tapes, floppies, Jaz cartridges, CD-ROMs) or otherwise, whether such files have been reduced to paper printouts or not. More specifically, you are to preserve all of your e-mails related to the Incident, both sent and received, whether internally or externally; all word-processed files related to the Incident, including drafts and revisions; all spreadsheets, including drafts and revisions; all databases related to the Incident; all CAD (computer-aided design) files related to the Incident, including drafts and revisions; all presentation data or slide shows related to the Incident and produced by presentation software (such as Microsoft PowerPoint); all graphs, charts and other data related to the Incident and produced by project management software (such as Microsoft Project); all data related to the Incident generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook or Lotus Notes); all data related to the Incident created with the use of personal data assistants (PDAs), such as Palm Pilot, HP Jornada, Cassiopeia or other Windows CE-based or Pocket PC devices; all data related to the Incident created with the use of document management software; all data related to the Incident created with the use of paper and electronic mail logging and routing software; all Internet and Web-browser-generated history files, caches and “cookies” files related to the Incident and generated at the workstation of each employee and/or agent in your employ and on any and all backup storage media; and any and all other files or recordings related to the Incident and generated by users through the use of recording devices, computers and/or telecommunications, including but not limited to audio and video recordings and voice mail.

You are also not to pack, compress, purge or otherwise dispose of files and parts of files related to the Incident unless a true and correct copy of such files is made.

You are also to preserve and not destroy all passwords, decryption procedures (including, if necessary, the software to decrypt the files); network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view and (if necessary) reconstruct the electronic data I will request through discovery and/or public records law that relates to the Incident.

You are hereby given further notice that any and all Preserved Information and/ or potential evidence related to Incident No. 1411306 is to be preserved and not to be destroyed, concealed or altered in any manner whatsoever, and that any ongoing processing of document destruction involving such Preserved Information must cease immediately. In particular, please identify and save all information and records, including but not limited to incident reports, use of force reports, discharge of firearms reports, forensic reports and/or analysis, referrals to Internal Affairs, referrals to Animal Control agencies, statistical reports, or any other written documentation in addition to any photographs of evidence, audio recordings, and/or video recordings related to this incident including but not limited to the following materials:

1. The entire case file pertaining to this incident including any and all recordings made and /or recorded related to this incident.
2. As to Officer J. Parker (112/615), all records pertaining to his discharging a firearm or use of force (including less-lethal, non-lethal) at an animal of any species or breed going back to his first date of employment with the Berkeley Police Department.
3. As to Officer J. Parker (112/615), all records pertaining to him discharging a firearm at a human going back to the first date of employment with the Berkeley Police Department.
4. All investigative reports (criminal and administrative), including but not limited to preliminary and final reports, IA/IIU files, Shooting Review Board files, and Use of Force files, concerning (2) and (3), including the shooting of Raeleigh on October 3, 2014.
5. Copies of all audio (i.e. radio traffic, 911 calls) within one hour before the shooting to the clearing of any calls involving the shooting of Raeleigh.
6. All changes and revisions made to any report submitted as part of this incident.
7. Officer Affidavits of Sworn Statements.
8. Witness Statements related to the incident.
9. Calls for Services related to the incident.
10. All equipment maintenance schedules and records including but not limited to dash cams, audio recordings, and any other tools available on the day of the incident.
11. All dash cam or alternate video footage/audio from any and all officer's in the vicinity of the shooting from one hour prior to the shooting through clearing of the incident.
12. Any written documentation submitted, or photographs, or video of evidence collected or recorded regarding this incident.
13. The complete CAD log for Officer J. Parker (112/615), for the entire shift of that officer on the day of the shooting.

14. All searches/logs/returns performed by dispatch in response or relation to the incident involving the shooting of Raeleigh.
15. All email or written communications between any Berkeley Police Department officer or employee, on the one hand, and any other person, on the other hand (i.e., including officer-to-officer communications) as it pertains to the shooting of Raeleigh.
16. The entire Berkeley Police Department set of manual/policies, procedural memos, and procedures in effect on the date of the shooting, including but not limited to all manuals, directives, general and specific orders, and circulars pertaining to use of force in general and additionally specifically regarding the use of force or firearms toward any animal.
17. The full training jacket/list particularly but not limited to training in use of force and firearms, and as pertains to the use of less-lethal and non-lethal tools for Officer J. Parker (112/615), responsible for shooting Raeleigh as of October 3, 2014.
18. All records reflecting the inventory of all items issued to Officer J. Parker (112/615) and on his person at the time of the shooting of Raeleigh, including uniform, armor, weapons, tools, etc. ., and any or all personally purchased and owned equipment carried or used in his duties on that day.
19. All Use of Force, Shooting Review Board, and Deadly Force Review Board files involving the shooting of a dog by any officer in the last 10 years of the Berkeley Police Department.
20. Any and all records of trainings, programs, counseling and/or other educational programs; and
21. The entire report submitted by the authority who investigated the matter and any materials and/or recordings relied upon or referenced in that report which you have not otherwise produced.
22. **Business Records:** [All documents and information about documents containing backup and/or archive policy and/or procedure, document retention policy, names of backup and/or archive software, names and addresses of any offsite storage provider.]
 - a. All e-mail and information about e-mail (including message contents, header information and logs of e-mail system usage) related to the Incident;
 - b. All databases (including all records and fields and structural information in such databases), containing any reference to and/or information about or related to the Incident;
 - c. All logs of activity (both in paper and electronic formats) on computer systems and networks that have or may have been used to process or store electronic data containing information about or related to the Incident;
 - d. All word processing files, including prior drafts, "deleted" files and file fragments, containing information about or related to the Incident;

- e. All files, including prior drafts, “deleted” files and file fragments, containing information from electronic calendars and scheduling programs regarding or related to the Incident; and
 - f. All electronic data files, including prior drafts, “deleted” files and file fragments about or related to the Incident.
23. **Online Data Storage on Mainframes and Minicomputers:** With regard to online storage and/or direct access storage devices attached to your mainframe computers and/or minicomputers, you are not to modify or delete any electronic data files, “deleted” files and file fragments existing at the time of this letter’s delivery, which meet the definitions set forth in this letter, unless a true and correct copy of each such electronic data file has been made and steps have been taken to assure that such a copy will be preserved until the Statute of Limitations (SOL) to file a personal injury lawsuit have expired and/or throughout the duration of any open and/or pending lawsuits affiliated (directly or indirectly) with this Incident..
24. **Offline Data Storage, Backups and Archives, Floppy Diskettes, Tapes and Other Removable Electronic Media:** With regard to all electronic media used for offline storage, including magnetic tapes and cartridges and other media that, at the time of this letter’s delivery, contained any electronic data: You are to stop any activity that may result in the loss of such electronic data, including rotation, destruction, overwriting and/or erasure of such media in whole or in part. This request is intended to cover all removable electronic media used for data storage in connection with your computer systems, including magnetic tapes and cartridges, magneto-optical disks, floppy diskettes and all other media, whether used with personal computers, minicomputers or mainframes or other computers, and whether containing backup and/or archive data sets and other electronic data, for all of your computer systems.
21. **Replacement of Data Storage Devices:** You are not to dispose of any electronic data storage devices and/or media that may be replaced due to failure and/or upgrade and/or other reasons that may contain electronic data.
22. **Fixed Drives on Stand-Alone Personal Computers and Network Workstations:** With regard to electronic data, which existed on fixed drives attached to stand-alone microcomputers and/or network workstations at the time of this letter’s delivery: You are not to alter or erase such electronic data or perform other procedures (such as data compression and disk defragmentation or optimization routines) that may impact such data, unless a true and correct copy has been made of such active files and of completely restored versions of such deleted electronic files and file fragments, copies have been made of all directory listings (including hidden files) for all directories and subdirectories containing such files, and arrangements have been made to preserve until the Statute of Limitations (SOL) to file a personal injury lawsuit have expired and/or throughout the duration of any open and/or pending lawsuits affiliated (directly or indirectly) with this Incident.
23. **Programs and Utilities:** You are to preserve copies of all application programs and utilities, which may be used to process electronic data covered by this letter.
24. **Log of System Modifications:** You are to maintain an activity log to document modifications made to any electronic data processing system that may affect the system’s capability to process any

electronic data, regardless of whether such modifications were made by employees, contractors, vendors and/or any other third parties.

25. **Personal Computers Used by Your Employees and/or Their Secretaries and Assistants:** The following steps should immediately be taken in regard to all personal computers used by your employees and/or their secretaries and assistants.
 - a. As to fixed drives attached to such computers: a true and correct copy is to be made of all electronic data on such fixed drives relating to the Incident, including all active files and completely restored versions of all deleted electronic files and file fragments, and such copies and listings are to be preserved until this matter reaches its final resolution.
 - b. All floppy diskettes, magnetic tapes and cartridges, and other media used in connection with such computers prior to the date of delivery of this letter containing any electronic data relating to the Incident are to be collected and put into storage until the Statute of Limitations (SOL) to file a personal injury lawsuit have expired and/or throughout the duration of any open and/or pending lawsuits affiliated (directly or indirectly) with this Incident.
26. **Evidence Created Subsequent to This Letter:** With regard to electronic data created subsequent to the date of delivery of this letter, relevant evidence is not be destroyed and you are to take whatever steps are appropriate to avoid destruction of evidence.
27. **Preservation and Inspection of the video and/or audio recording from any officer's agency vehicle located at the Incident.** The Berkeley Police Department is requested and instructed not to edit or alter in any way the video and/or audio recording from any officer's agency vehicle located at the Incident, as well as any recorded communications in the possession of any officer's on site at this Incident. The same is requested of any other addressee of this letter which may have custody of that recorded information at this time. The Berkeley Police Department is requested to allow me an opportunity to inspect these audio and/or video recordings immediately.

All of the information contained in the letter should be preserved until the Statute of Limitations (SOL) to file a personal injury lawsuit have expired and/or throughout the duration of any open and/or pending lawsuits affiliated (directly or indirectly) with this Incident. If you have any questions or your search requires keyword searches, then please contact me via email Justice4Raeleigh@gmail.com or phone 708-833-1935.

If the records are not currently in your possession, please notify me in writing, and provide any and all information about where and with whom the records may be found, requested, viewed or copied, and/or when they will become available to your office.

If you claim the records do not exist, please provide a detailed description of what files were searched if a search was performed, and make available an index of your records.

If any document requested herein has previously been destroyed, you are requested to describe in detail the circumstances of and reasons for such destruction and to produce all documents which relate to either the circumstances or the reasons for such destruction.

In order to assure that your obligation to preserve all records, documents, and things will be met, please forward a copy of this letter to any and all persons and entities with custodial responsibility for the items referred to in this letter.

Thank you in advance for your anticipated attention and co-operation to this request.

Sincerely,

Gina Marie Stone

Phone: 708-833-1935 | Fax: 866-646-3475 | Email: Justice4Raeleigh@gmail.com